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Steven G. LeMay

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EXAMINER

ASHBURN, STEVEN L

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 02/10/2004

22

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/642,192

Applicant(s)

LEMAY ET AL.

Examiner

Steven Ashburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-44 and 47-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 and 47-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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### ***DETAILED ACTION***

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 17, 2003 has been entered.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 1-20, 23-28, 30-35, 38-44 and 47-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Acres, U.S. Patent 6,371,852 B1 (Apr. 16, 2002).**

Claims 1, 24 and 44: *Acres* teaches the following features:

- a. A housing. *See fig. 2.*

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- b. A master gaming controller mounted with the housing designed and configured to (i) control games played on a gaming machine and (ii) to execute player-tracking software for performing player tracking functions for providing player tracking services including (a) evaluating player tracking events, (b) directly controlling operating features of a plurality of physical devices in response to player tracking events wherein the operating features of the devices are controlled to perform the functions of a player tracking unit. *See fig. 2(54); col. 4:22-23; 6:11-20.*
- c. Lack of a separate player-tracking unit providing player-tracking services comprised of player tracking devices and a processor for executing player tracking software to operate the player-tracking devices. *See fig. 2; col. 4:30-34.* In particular, instead of providing a integrated player-tracking unit, *Acres* provides separate peripheral devices providing player-tracking functions under direct control of the gaming controller. The gaming controller fetches player-tracking data from a central database and executes software to perform player tracking services via the card reader( 60), VFD (58), pushbutton (62) and speaker (64). *See col. 6:11-20.*
- d. A main display coupled to the housing used to display games controlled by the gaming controller. *See fig. 2(48).*
- e. Devices coupled to the housing for accepting indicia of credit for making wagers on the gaming machine. *See fig. 2(60, 68).*
- f. Output devices couple to the housing for dispensing indicia of credit. *See fig. 2(60, 78).*
- g. Input deices coupled to the housing for inputting player-tracking information into the gaming machine wherein the input device is among the devices controlled by the master gaming controller. *See fig. 2(60).*
- h. A communication interface for transmitting player-tracking information to a site outside the gaming machine. *See fig. 2(22, 50).*

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- i. A memory storing player tracking software that allows the master gaming controller to operated on the tracking event and allows the master gaming controller to provide gaming services. *See id.*

As listed above, *Acres* teaches each and every feature of the claim. Consequently, the claim is unpatentable as being anticipated by *Acres*.

Claims 2, 37 and 51-53: *Acres* teaches gaming services including player tracking and accounting services. *See col. 5:36-6:20.*

Claims 3, 25, 28 and 47-49: *Acres* teaches a card reader, a pushbuttons and a display. *See fig. 2; col. 4:30-34.* Notably, keypads, touch-screens, microphones, wireless interfaces and barcode readers are equivalent devices known in the art as being substitutable for the purpose of receiving inputs from patrons.

Claims 4 and 34: *Acres* teaches a display device for displaying player tracking information. *See 2(58); 6:11-20.*

Claims 5 and 35: *Acres* teaches a display device that is a florescent display and sound projectors . *See 2(58); 6:11-20.* Notably, LCDs, monitors (i.e. CRTs) are equivalent devices known in the art as being substitutable for purpose of displaying information.

Claims 6 and 41: *Acres* teaches gaming machine is a video slot machine. *See fig. 2.* Notably, slot machines, keno games or video poker games are equivalent devices known in the art as being substitutable for purpose of gaming. *See fig. 1, 6, 7; col. 3:57-65.*

Claims 7 and 39: *Acras* teaches a communication interface connected to a network. *See fig. 2(22, 50).*

Claims 8 and 40: *Acras* describes a network that is a casino network, progressive network, bonus game network or a cashless network. *See col. 3:7-4:25.*

Claims 9 and 25: *Acras* describe an interface unit that facilitates communication between the controller and the gaming device's peripheral player-tracking components. *See fig. 2(50); col. 4:30-34.* Interfacing requires hardware and software to connect, format and translate data transferred between devices. Hence, it is implicit in *Acras*, wherein the controller exchanges player-tracking data with peripheral devices in response to events, that the software includes interfaces, drivers, event evaluators and translators.

Claims 10, 14, 18, 19, 27, 30 and 31: *Acras* discloses that the devices are connected to the master controller through a serial port. *See col. 4:20-24.* It is implicit that the serial data is translated from parallel data protocol used by the processor's data bus. Similarly, *Acras* discloses that player-tracking data is transmitted over an Ethernet link. Software drivers are implicitly required to translate data between the serial, parallel and Ethernet formats to support communication protocols used by remote devices. Netplex, USB, Firewire, direct memory map, PCI, TCP/IP and manufacturer data protocols are equivalent data formats known in the art as being substitutable for purpose transferring data between devices and over networks.

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Claim 11: *Acres* additionally teaches gaming machine memory storing software for device interfaces that allow the controller to detect player-tracking events from the input device. *See col. 6:11-20*. For example, *Acres* describes software that detects the event of a player tracking card being inserted and, in response, fetching player data from a central database.

Claims 12 and 38: *Acres* additionally teaches a device interface is a card reader, monitor; touch screen display, keypad, or panel buttons. *See fig. 2; col. 30-34*. These constitute physical devices for receiving and displaying player-tracking data

Claims 13, 39 and 43: *Acres* discloses a communication interface connected to two networks using the same communication connection. *See fig. 2; col. 3:28-4:5, 5:10-16*.

Claims 15 and 32: *Acres* discloses a remote gaming server being a player tracking server. *See id.*

Claims 16 and 53: *Acres* teaches memory storing software for receiving player tracking events from a site outside the gaming machine. *See id.*

Claims 17 and 33: *Acres* teaches player tracking data including at least one of name , time, date, amount wagered, location and game type. *See col. 5:1-20*.

Claim 20: *Acres* teaches receiving player tracking information from at least one of magnetic cards, smart card, finger prints, sound devices, bar-coded tickets, wireless devices and PDAs. *See col. 5:1-20*. Notably, magnetic cards, smart card, finger prints, sound devices, bar-coded tickets, wireless devices and PDAs are known in the art to be substitutable devices for receiving identity data from users.

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Claim 23: *Acres* discloses a communication interface using wire. *See fig. 2*. Wireless communication interfaces are known in the art to be substitutes for same purpose of transmitting data.

Claims 42: *Acres* implicitly describes player tracking event is an encapsulated information packet. *See id.* More specifically, *Acres* transmits player-tracking events between a gaming device and a server Ethernet Internet. Hence, it is implicit that player-tracking data is translated into the message packets of a predetermined size.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 21, 22, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Acres* in view of *Acres et al.*, U.S. Patent 5,702,304 (Dec. 30, 1997) (hereinafter "*Acres '304*").**

Claim 21, 22, 36 and 37: *Acres* does not describe software in the master controller for detecting power failures or non-volatile memory. *Acres '304* describes detecting power failures and storing data in non-volatile data to increase the reliability of player tracking data in case that a gaming device losses power. *See col. 9:17-33*. In view of *Acres '304*, it would have been obvious to an artisan at the time of the invention to modify *Acres* to add the feature of software in the master controller for detecting power failures to increase the reliability of player tracking data in case that a gaming device losses power.



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**Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Acres*, as applied to claims 1, 24 and 44 above, in view of *Lichtman*, U.S. 5,819,107 (Oct. 6, 1998).**

*Acres* does not disclose replacing a first device driver with a second device driver different from the first device driver wherein interface corresponding the device drivers is not changed. *Lichtman* discloses a method for interfacing a peripheral devices in a computer to simplify the process of installation or upgrading of components. *See col. 3:6-30*. In particular, *Lichtman* teaches replacing a first device driver with a second device driver different from the first device driver wherein interface corresponding the device drivers is not changed to support a plurality of peripheral devices without changing the interface. *See fig. 4a-c, 5, 11b; 8:54-9:54*. In view of *Lichtman*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gaming device disclosed by *Acres*, wherein a plurality of peripheral devices are interfaced to a central processor in a networked gaming device, to add the feature of replacing a first device driver with a second device driver different from the first device driver wherein interface corresponding the device drivers is not changed. As taught by *Lichtman*, the modification would improve the system by allowing it to support a plurality of peripheral devices without changing the interface. *See fig. 4a-c, 5, 11b; 8:54-9:54*.

#### ***Response to Arguments***

Applicant's arguments filed Oct. 27, 2003 have been considered but are moot in view of the new grounds of rejection.

#### ***Prior Art, Not Relied On***

The following prior art of record is not relied upon but is considered pertinent to applicant's disclosure:

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U.S. 4,868,900 to McGuire discloses an analogous system in which customer-tracking devices are linked directly to a controller without a separate processor performing customer-tracking processing. *See, e.g., fig. 1.*

U.S. 4,532,416 to Bernstein discloses an analogous system in which customer-tracking devices are linked directly to a controller without a separate processor performing customer-tracking processing. *See, e.g., fig. 1.*

U.S. 6,684,195 B1 to Deaton et al. discloses an analogous customer-tracking system in which customer-tracking devices are linked directly to a controller without a separate processor performing player-tracking processing. *See, e.g., fig. 1, 2D.*

U.S. 6,193,152 B1 to Fernando et al. discloses an analogous point-of-sale system in which customer-tracking devices are linked directly to a controller without a separate processor performing player-tracking processing. *See, e.g., fig. 2D.*

U.S. 6,607,439 B2 to Schneier et al. discloses an analogous game system in which player-tracking devices are linked directly to a game controller without a separate processor performing player-tracking processing. *See, e.g., fig. 2D.*

U.S. 2001/0053712 A1 discloses an analogous game system in which player-tracking devices are linked directly to a game controller without a separate processor performing player-tracking processing. *See, e.g., ¶¶ 20-22.*

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be

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reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1148.

s.a.

A handwritten signature in black ink, appearing to read 'MS', with a long horizontal flourish extending to the right.

MARK SAGER  
PRIMARY EXAMINER